

STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 7533

Investigation Re: Establishment of a Standard Offer)
Program for Qualifying Sustainably Priced Energy)
Enterprise Development ("SPEED") Resources)

Order entered: 10/29/2010

ORDER RE TECHNOLOGY CAPS

Introduction

On September 30, 2009, the Public Service Board ("Board") issued an Order establishing a standard-offer program for qualifying sustainably priced energy enterprise development ("SPEED") resources pursuant to the Vermont Energy Act of 2009 ("Act 45").¹ The September 30 Order established a division of the standard-offer queue to ensure that a diversity of technologies is commissioned under this program and determined that no one technology shall fill more than 25% of the queue. To balance this restriction with the intent to rapidly deploy generation resources, the technology caps were applicable for an initial six-month trial period.²

In its Fourth Order Re Implementation Issues, dated June 24, 2010, the Board extended the technology caps through October 31, 2010, to balance the dual directives of rapid deployment and diversity of commissioned resources. The Board required the SPEED Facilitator to provide an update on the status of the technology caps by September 30, 2010.³

By letter dated September 30, 2010, the SPEED Facilitator provided the Board with an update on the status of the technology caps. The letter included the following table indicating the total capacity, by technology, of projects with executed standard-offer contracts.

1. Public Act No. 45 (2009 Vt., Bien. Sess.).

2. *Investigation Re: Establishment of a Standard Offer Program*, Docket 7533, Order of 9/30/09 at 15.

3. *Investigation Re: Establishment of a Standard Offer Program*, Docket 7533, Order of 6/24/10 at 4.

Technology	Capacity (kW)	Projects
Solar PV	13,562	12
Biomass	3,840	3
Wind	13,602	9
Farm Methane	3,753	12
Landfill Methane	1,560	2
Hydroelectric	4,751	6
Total	41,068	44

The SPEED Facilitator stated that there were 171 Solar PV projects representing approximately 151 MW of capacity, and four Wind projects representing approximately 7 MW of capacity waiting to be processed because the Solar PV and Wind technology caps had been exceeded.

Participants' Comments

On October 7, 2010, the Clerk of the Board issued a memorandum soliciting any new comments on the standard-offer technology-specific caps in light of the SPEED Facilitator's update.

Comments were submitted by Brian Dunkiel, Esq., Shems Dunkiel Raubvogel & Saunders PLLC, on behalf of the Biomass Energy Resource Center ("BERC") and Renewable Energy Vermont ("REV"); the SPEED Facilitator; the Vermont Department of Public Service ("Department"); Central Vermont Public Service Corporation ("CVPS"); and project developers Penn Energy Trust ("Penn"), Southport Power, LLC ("Southport"), and Gas-Watt Energy, LLC ("GWE").

BERC and REV stated that the Board had previously found that the different technologies are at different stages of development and that the lead time required to plan, develop and construct a project may vary significantly by resource type. BERC and REV noted that while initial interest in biomass was sufficient to fill the queue, many projects, including several with executed standard-offer contracts, will not be built due to the costs associated with building

biomass plants and the still-emerging technology. BERC and REV further stated that the technology for biomass is still emerging and potential developers need more time to plan and develop viable biomass resources. BERC and REV contend there is now information that was not available when the Board set the standard-offer price for biomass that shows the current price of \$0.125/kWh is incorrect under the statutory formula. BERC and REV therefore hold that the Board should maintain the previously reserved biomass capacity at least until the Board has had the opportunity to review the standard-offer biomass price and developers have had the opportunity to assess projects under a new price.

The SPEED Facilitator filed comments in response to REV and BERC's comments on biomass projects that have voluntarily withdrawn from the Program. The SPEED Facilitator opined that while the standard-offer price may be a contributing factor to project withdrawal, the primary reason for project withdrawal is the inability of projects to meet the statutory requirement that wood biomass systems have a design system efficiency of 50% to qualify for the Program. The SPEED Facilitator further surmised that rapid deployment of biomass projects under the Program is unlikely given the 50% efficiency requirement.

The Department filed comments re-stating its position that the technology caps should remain in place. The Department concurred with BERC and REV that certain technologies should be allowed time to emerge as energy options in Vermont.

CVPS recommended that the technology caps remain in place so that those technologies that take longer to develop are afforded the longer lead time and have an opportunity to file for a standard-offer contract.

Penn advocated for an additional 10 MW or more to be allocated to the solar category.

Southport recommended that the Board review each technology cap individually and potentially redistribute any underused capacity to "more practical technologies." Southport cited the case of hydroelectricity ("hydro"), where the technology cap is currently under-subscribed, and even if all the hydro projects in the queue were to be built the remaining capacity would likely remain undeveloped.

GWE agreed with many other respondents that certain resources, biomass in particular, require additional time before projects can be successfully developed, and added that biomass

projects are not economically feasible in the current market and thus will not be constructed if not for the standard-offer program. GWE believes that biomass projects offer the advantage of providing reliable baseload power, which certain other resources in the standard-offer program do not provide. GWE further supported reallocating capacity from under-subscribed technology categories to a new small wind category to allow for the development of 10-12 small wind projects of 100 kW capacity. GWE argued that this would allow for innovation that would eventually reduce installed costs for this technology.

Discussion and Conclusion

Most participants, including three technology-neutral participants, REV, CVPS and the Department, support maintaining the technology caps either indefinitely or until the Board has had the opportunity to review certain aspects of the standard-offer program. Several participants asserted that certain technologies require longer lead times for projects to be developed, and therefore the technology caps should be retained to provide appropriate project-development time.

We agree that projects utilizing different technologies require different project-development times. In balancing the goals of rapid deployment and resource diversity, we have considered this factor. This should not be construed, however, as a determination by the Board that it is appropriate to wait indefinitely for certain technologies to advance or "emerge as energy options in Vermont." To do so would contradict the statutory directive of rapid deployment.

In the September 30 Order, the Board found it necessary and appropriate to adopt a mechanism to ensure that a diversity of resources are included in the standard-offer program. Our inclination on this issue remains unchanged, and because a diversity of resources has not yet been achieved, we conclude that it is appropriate to retain the technology caps for an additional six months. The technology caps are therefore extended through May 31, 2011.

BERC and REV suggested that the current standard-offer price for biomass projects is incorrect. At this time, no participant has demonstrated that the biomass standard-offer price, which we adopted only nine months ago largely based upon industry data, is in error. Also, no

participant has asked us to change this price.⁴ Southport, GWE, and to a certain extent Penn, supported reviewing each technology cap individually and potentially redistributing any underused capacity within a technology cap to other categories. We note that, pursuant to 30 V.S.A. § 8005(n), the Board must report to the house and senate committees on natural resources and energy on or before January 15, 2011, concerning the status of the standard-offer program. This report will assess the progress made toward attaining the 50 MW capacity ceiling, identify any barriers to attaining that ceiling and provide recommendations for overcoming such barriers. In preparing this report, the Board may consider the issues of price adequacy and technology caps.

SO ORDERED.

4. In Orders issued September 15, 2009, in Docket 7523 and January 15, 2010, in Docket 7533, the Board found there to be insufficient information to make an adjustment to the statutory default price for biomass projects of \$0.125/kWh. Due to the significant response to the standard-offer price on the first day that the SPEED Facilitator began accepting applications, the Board concluded that it would "retain the \$0.125/kWh price until the next statutory review process, unless a party petitions the Board to alter the number before that time." *Establishment of Price for Standard Offer*, Docket 7533, Order of 1/15/10 at 73-75.

Dated at Montpelier, Vermont, this 29th day of October, 2010.

<u>s/ James Volz</u>)	
)	PUBLIC SERVICE
)	
)	BOARD
)	
)	OF VERMONT
<u>s/ John D. Burke</u>)	

OFFICE OF THE CLERK

FILED: October 29, 2010

ATTEST: s/ Judith C. Whitney
Deputy Clerk of the Board

NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: psb.clerk@state.vt.us)

Appeal of this decision to the Supreme Court of Vermont must be filed with the Clerk of the Board within thirty days. Appeal will not stay the effect of this Order, absent further Order by this Board or appropriate action by the Supreme Court of Vermont. Motions for reconsideration or stay, if any, must be filed with the Clerk of the Board within ten days of the date of this decision and order.